

AMENDED IN ASSEMBLY APRIL 24, 2012

AMENDED IN ASSEMBLY APRIL 12, 2012

AMENDED IN ASSEMBLY MARCH 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2566**

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### **Introduced by Assembly Member Hill**

February 24, 2012

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An act to amend Section 5485 of, and to add Section 5272.5 to, the Business and Professions Code, relating to outdoor advertising.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2566, as amended, Hill. Outdoor advertising: exemptions.

Existing law, the Outdoor Advertising Act, regulates the placement of outdoor advertising displays along highways. Certain exemptions from the regulations of the act are provided, including exemptions for certain on-premises advertising displays that advertise the business conducted, services rendered, or goods produced or sold on the property where the displays are located.

This bill would provide an exemption from the regulations of the Outdoor Advertising Act for an advertising display located at Post Mile 31.51, 510 feet south of Magellan Road, on State Route 1, in the County of San Mateo, if certain conditions, including ~~certain specified~~ conditions relating to the size of the display, are satisfied.

~~Existing law requires the Department of Transportation to assess penalties for a violation of the Outdoor Advertising Act, as specified.~~

~~This bill would permit the department or the adjudicating authority to reduce the penalty upon a showing of good cause.~~

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of San Mateo.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5272.5 is added to the Business and  
2 Professions Code, to read:

3 5272.5. None of the provisions of this chapter apply to an  
4 advertising display located at Post Mile 31.51, 510 feet south of  
5 Magellan Road, on State Route 1, in the County of San Mateo, if  
6 all of the following conditions are met:

7 (a) Written evidence is provided to the department indicating  
8 that both the owner or person in control or possession of the  
9 property upon which the advertising display is to be located and  
10 the city or county with land use jurisdiction over that property  
11 have consented to the placing of the display.

12 (b) Placement of the display will not necessitate trimming,  
13 pruning, topping, or removal of existing trees in order to make the  
14 display visible or to improve its visibility, unless done as part of  
15 the normal landscape maintenance activities that would be  
16 undertaken without regard to the placement of the display.

17 (c) The display does not advertise products or services that are  
18 directed at an adult population, including, but not limited to,  
19 alcohol, tobacco, gambling, or sexually explicit material.

20 (d) The display does not cause a reduction in federal aid highway  
21 funds, as provided in Section 131 of Title 23 of the United States  
22 Code. If the display causes a reduction in federal aid highway  
23 funds, the department shall revoke the permit granted under this  
24 section.

25 (e) The display is not flashing, as defined in Section 5211, is  
26 not a message center, as defined in Section 5216.4, and is not  
27 bigger than 72 inches in length and 168 inches in height.

28 (f) The display contains the words “beach access.”

29 ~~SEC. 2. Section 5485 of the Business and Professions Code is~~  
30 ~~amended to read:~~

31 ~~5485. (a) (1) The annual permit fee for each advertising~~  
32 ~~display shall be set by the director.~~

1     ~~(2) The fee shall not exceed the amount reasonably necessary~~  
2     ~~to recover the cost of providing the service or enforcing the~~  
3     ~~regulations for which the fee is charged, but in no event shall the~~  
4     ~~fee exceed one hundred dollars (\$100). This maximum fee shall~~  
5     ~~be increased in the 2007–08 fiscal year and in the 2012–13 fiscal~~  
6     ~~year by an amount equal to the increase in the California Consumer~~  
7     ~~Price Index.~~

8     ~~(3) The fee may reflect the department’s average cost, including~~  
9     ~~the indirect costs, of providing the service or enforcing the~~  
10    ~~regulations.~~

11    ~~(b) If a display is placed or maintained without a valid,~~  
12    ~~unrevoked, and unexpired permit, the following penalties shall be~~  
13    ~~assessed:~~

14    ~~(1) If the advertising display is placed or maintained in a location~~  
15    ~~that conforms to the provisions of this chapter, a penalty of one~~  
16    ~~hundred dollars (\$100) shall be assessed.~~

17    ~~(2) If the advertising display is placed or maintained in a location~~  
18    ~~that does not conform to the provisions of this chapter or local~~  
19    ~~ordinances, and is not removed within thirty days of written notice~~  
20    ~~from the department or the city or the county with land use~~  
21    ~~jurisdiction over the property upon which the advertising display~~  
22    ~~is located, a penalty of ten thousand dollars (\$10,000) plus one~~  
23    ~~hundred dollars (\$100) for each day the advertising display is~~  
24    ~~placed or maintained after the department sends written notice~~  
25    ~~shall be assessed.~~

26    ~~(3) Notwithstanding paragraph (2), a penalty assessed under~~  
27    ~~this subdivision may be reduced by the department upon a showing~~  
28    ~~of good cause presented to the department within 30 days of the~~  
29    ~~decision imposing the penalty, or by the authority before which~~  
30    ~~the matter is adjudicated.~~

31    ~~(c) In addition to the penalties set forth in subdivision (b), the~~  
32    ~~gross revenues from the unauthorized advertising display that are~~  
33    ~~received by, or owed to, the applicant and a person working in~~  
34    ~~concert with the applicant shall be disgorged.~~

35    ~~(d) The department or a city or a county within the location~~  
36    ~~upon which the advertising is located may enforce the provisions~~  
37    ~~of this section.~~

38    ~~(e) Notwithstanding any other provision of law, if an action~~  
39    ~~results in the successful enforcement of this section, the department~~  
40    ~~may request the court to award the department its enforcement~~

1 costs, including, but not limited to, its reasonable attorneys' fees  
2 for pursuing the action.

3 ~~(f) It is the intent of the Legislature in enacting this section to~~  
4 ~~strengthen the ability of local governments to enforce zoning~~  
5 ~~ordinances governing advertising displays.~~

6 ~~SEC. 3.~~

7 *SEC. 2.* The Legislature finds and declares that a special law  
8 is necessary and that a general law cannot be made applicable  
9 within the meaning of Section 16 of Article IV of the California  
10 Constitution because of the unique circumstances concerning the  
11 location of the advertising that is the subject of this act and the  
12 need for advertising in the County of San Mateo, it is necessary  
13 that an exemption from the Outdoor Advertising Act be provided  
14 for that advertising.